



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Ms. Sandra Garcia
Assistant General Counsel
Houston Community College
3100 Main Street
Houston, Texas 77002

OR2013-21954

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 508667.

Houston Community College (the "college") received a request for the names of the evaluation committee members for Request for Qualifications Number 13-40. You claim the requested information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim.

We must address the college's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. *See* Gov't Code § 552.301. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). You inform us the college received the request for information on September 24, 2013. Accordingly, the college's fifteen-business-day deadline was October 15, 2013. However, as of the date of this letter, you have not submitted for our review comments explaining why the stated exception applies or a copy or representative sample of the information requested. Consequently, we find the college failed to comply with the requirements of section 552.301(e) of the Government Code.

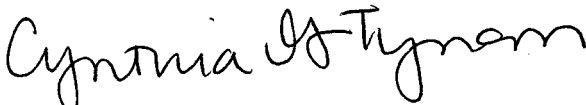
Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal

presumption that the requested information is public and must be released. *See id.* § 552.302. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.*; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third-party interests. *See* ORD 630. Because the college has failed to comply with the requirements of the Act, the college has waived its argument under section 552.104 of the Government Code, which is a discretionary exception that does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 592 (1991) (governmental body may waive statutory predecessor to section 552.104). Thus, we have no choice but to order the requested information be released pursuant to section 552.302 of the Government Code. If the college believes the information is confidential and may not lawfully be released, the college must challenge this ruling in court pursuant to section 552.324 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 508667

c: Requestor